

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE ENROLLED ACT No. 59

AN ACT to amend the Indiana Code concerning pensions.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 2-3.5-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 12. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of any active member, a rollover distribution from any of the following:**

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.**
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.**
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.**

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's account.

(c) A member may direct the investment of the member's rollover account into any alternative investment option that the



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board may make available to the member's rollover account under section 3 of this chapter.

(d) A member may withdraw the member's rollover account from the fund in a lump sum at any time before retirement. At retirement, the member may withdraw the member's rollover account in accordance with the retirement options that are available for the member's account.

SECTION 2. IC 5-10.2-2-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) Each board may establish investment guidelines and limits on all types of investments (including, but not limited to, stocks and bonds) and take other actions necessary to fulfill its duty as a fiduciary for all funds assets under its control, subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

(b) Each board may commingle or pool assets with the assets of any other persons or entities. This authority includes, but is not limited to, the power to invest in commingled or pooled funds, partnerships, or mortgage pools. In the event of any such investment, the board shall keep separate detailed records of the assets invested. Any decision to commingle or pool assets is subject to the limitations and restrictions set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

SECTION 3. IC 5-10.2-3-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1.2. (a) A member who has earned at least ten (10) years of service in a position covered by PERF, TRF, or a combination of the two (2) funds may purchase one (1) year of service credit for each five (5) years of service that the member has completed in a position covered by PERF or TRF.

(b) Before a member retires, a member who desires to purchase additional service credit under subsection (a) must contribute to the fund as follows:

(1) Contributions that are equal to the product of the following:

(A) The member's salary at the time the member actually makes a contribution for the service credit.

(B) A rate, determined by the actuary for the fund, that is based on the age of the member at the time the member actually makes a contribution for the service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit attributable to the service credit purchased.



(C) The number of years of service credit the member intends to purchase.

(2) Contributions for any accrued interest, at a rate determined by the actuary for the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

(c) The following apply to the purchase of service credit under this section:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for the purpose of computing benefits unless the member has made all payments required for the purchase of the service credit.

(4) To the extent permitted by the Internal Revenue Code and applicable regulations, a member may purchase service credit under this section by a rollover distribution to the fund from any of the following:

(A) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(B) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(C) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(D) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(d) A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly benefit may withdraw the purchase amount, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under section 6 of this chapter to be eligible for a refund of the member's rollover amount.

(e) For a member who is a state employee, the employer may

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pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

(f) For a member who is an employee of a participating political subdivision, the employer may adopt an ordinance to pay all or a part of the member contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (c)(1), (c)(3), (c)(4), and (d) do not apply.

SECTION 4. IC 5-10.2-3-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6.2. A member who:

- (1) has attained vested status in the fund;
- (2) has terminated employment;
- (3) has not begun receiving benefits; and
- (4) is transferring creditable service earned under PERF or TRF to another governmental retirement plan under section 1(i) of this chapter;

may suspend the member's membership and withdraw the member's annuity savings account to purchase creditable service in the other governmental retirement plan.

SECTION 5. IC 5-10.2-3-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of any active member, a rollover distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(b) Any amounts rolled over under subsection (a) must be accounted for in a "rollover account" that is separate from the member's annuity savings account.



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(c) A member may direct the investment of the member's rollover account into any alternative investment option that the board may make available to the member's rollover account under IC 5-10.2-2-3. However, the member may not invest the member's rollover account in the guaranteed fund.

(d) A member may withdraw the member's rollover account from the fund in a lump sum at any time before retirement. At retirement, the member may withdraw the member's rollover account in accordance with the retirement options that are available for the member's annuity savings account, including the deferral of a withdrawal.

SECTION 6. IC 5-10.2-4-8.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8.2. (a) Notwithstanding section 8 of this chapter, if a member who is receiving retirement benefits is elected or appointed to an elected position covered by this article, the member shall file a written, irrevocable election with the board to continue or discontinue retirement benefits while the member holds the elected position.

(b) If a member:

(1) is elected or appointed to an elected position and:

(A) becomes at least fifty-five (55) years of age; and

(B) completes at least twenty (20) years of service; or

(2) is serving in any other position covered by this article and:

(A) becomes at least ~~seventy-five (75)~~ **seventy (70)** years of age; and

(B) completes at least twenty (20) years of service;

while holding the position, the member may file a written, irrevocable election to begin receiving, while holding the position, retirement benefits to which the member would be entitled by age and service. A member who does not make the irrevocable election while holding the position is entitled to retroactive payments to cover any period from the date the member qualifies to make the election under this subsection to the date the member files the election under this subsection.

(c) The form and content of an election shall be prescribed by the board. If the member elects to discontinue receiving retirement benefits, the member shall make contributions as required in IC 5-10.2-3-2. If the member elects to continue or begin receiving benefits:

(1) the member may continue to make contributions under IC 5-10.2-3-2 but is not required to do so; and

(2) the member waives the accrual of service credit and the right to any supplemental benefit from service in the position, except

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to the extent that the value of the accrual of additional service credit and any supplemental benefit exceeds the actuarial value of the benefits received under this chapter and that were continued or begun pursuant to an election under this section.

(d) Except to the extent of the liability for any additional benefit accrued under subsection (c)(2), the employer shall make the employer's contribution only for past service liability based on the salary for the position of a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

(e) Section 10 of this chapter applies to a member who elects under subsection (a) to discontinue receiving retirement benefits. Section 10 of this chapter does not apply, while the member holds a position covered by this article, to a member who elects under subsection (a) or (b) to continue or begin receiving retirement benefits.

SECTION 7. IC 5-10.3-3-8, AS AMENDED BY P.L.119-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board may do any of the following:

- (1) Establish and amend rules and regulations:
 - (A) for the administration and regulation of the fund and the board's affairs; and
 - (B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.
- (2) Make contracts and sue and be sued as the board of trustees of the public employees' retirement fund of Indiana.
- (3) Delegate duties to its employees.
- (4) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, **dental, vision, long term care**, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired members of the fund, and, upon authorization of the respective member, deduct premium payments for such policies from the members' retirement benefits and remit the payments to the insurance companies.
- (5) Enter into agreements with one (1) or more insurance companies to provide annuities for retired members of the fund, and, upon a member's authorization, transfer the amount credited to the member in the annuity savings account to the insurance companies.
- (6) Whenever the fund's membership is sufficiently large for actuarial valuation, establish an employer's contribution rate for all employers, including employers with special benefit provisions for certain employees.

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(7) Amortize prior service liability over a period of forty (40) years or less.

(8) Recover payments made under false or fraudulent representation.

(9) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(b) An agreement under subsection (a)(4) may be for a duration of three (3) years.

(c) **This subsection does not apply to investments of the board.**

A contract under subsection (a)(2) may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 8. IC 5-10.3-7-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.5. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

(1) The rollover contribution must represent:

(A) all or a portion of the member's interest in a retirement plan of a former employer which is qualified under Section 401(a) of the Internal Revenue Code and which permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code; ~~or~~

(B) **all or a portion of the member's interest from a conduit an individual retirement account under or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code; However, the conduit individual retirement account may not have any assets other than assets that:**

(i) were previously distributed to the member by an employer plan qualified under Section 401(a) of the Internal Revenue Code as a lump sum distribution;

(ii) are eligible for tax free rollover treatment; and

(iii) were deposited in the conduit individual retirement account within sixty (60) days of receipt, and earnings on the conduit account.

(C) **all or a portion of the member's interest in:**

(i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or

(ii) an annuity contract or account described in Section

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403(b) of the Internal Revenue Code; or

(D) all or a portion of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under this chapter.

(3) The rollover contributions may contain only tax-deferred contributions and earnings on the contributions, and may not include any post-tax contributions.

(4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

(1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

(1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and

(2) reasonable releases or indemnifications from the member against any and all liabilities that may be connected with the transfer.

~~(c)~~ (d) Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account.

~~(d)~~ (e) A member who terminates employment before satisfying the eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of ~~their~~ **the member's** rollover amount.

~~(e)~~ (f) Except as provided in this section, the fund shall not accept



any other rollover contributions from a member.

(g) The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

SECTION 9. IC 5-13-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The fiscal body of any political subdivision may by ordinance or resolution authorize the proper legal officers of the political subdivision to transact the political subdivision's business with a financial institution **or a retirement fund administered by the public employees' retirement fund** through the use of electronic funds transfer.

(b) The ordinance or resolution must:

- (1) specify the types of transactions that may be conducted by electronic funds transfer; and
- (2) require the proper officers to maintain adequate documentation of the transactions so that they may be audited as provided by law.

SECTION 10. IC 20-5-3-1, AS AMENDED BY P.L.68-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The governing body of each school corporation shall organize by electing a president, a vice president, and a secretary, each of whom shall be a different member, within the first fifteen (15) days following the commencement date of the members' terms of office, as provided for under section 3 of this chapter.

(b) The governing body shall also at such time appoint a treasurer of the governing body and of the school corporation who is a person, other than the superintendent of schools, who is not a member of the governing body. The treasurer may, with the approval of the governing body, appoint a deputy who shall also be a person, other than the superintendent of schools, who is not a member of the governing body and who shall have the same powers and duties as the treasurer, or such lesser duties as the governing body by rule shall provide.

(c) The treasurer shall be the official custodian of all funds of the school corporation and shall be responsible for the proper safeguarding and accounting for all the funds and shall:

- (1) issue a receipt for any money coming into the treasurer's hands;
- (2) deposit such money in accordance with the laws governing the deposit of public funds; and
- (3) issue all warrants in payment of expenses lawfully incurred on behalf of the school corporation, but, except as otherwise provided by law, shall issue the warrants only after proper

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allowance or approval by the governing body. No allowance or approval shall be required by the governing body for amounts lawfully due in payment of indebtedness or payments due the state of Indiana, the United States Government, or their agencies and instrumentalities.

No verification, other than a properly itemized invoice, shall be required for any claim of one hundred dollars (\$100) or less, and any claim over this amount is sufficient as to form if the bill or statement therefor has printed or stamped on its face a verification of the bill or statement in language approved by the state board of accounts.

(d) Notwithstanding subsection (c), a treasurer may transact school corporation financial business with a financial institution **or a public retirement fund** through the use of electronic funds transfer. For purposes of this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The treasurer must provide adequate documentation to the governing body of the transfers made under this subsection. This subsection applies only to agreements for joint investment of money under IC 5-13-9 **and to payments to:**

- (1) the Indiana state teachers' retirement fund; or**
- (2) the public employees' retirement fund;**

from participating employers.

(e) A treasurer is not personally liable for an act or omission occurring in connection with the performance of the duties set forth in this section, unless the act or omission constitutes gross negligence or an intentional disregard of the treasurer's duties.

(f) The governing body may establish the position of executive secretary to the governing body. The executive secretary:

- (1) must be an employee of the school corporation;
- (2) may not be a member of the governing body; and
- (3) shall be appointed by the governing body upon the recommendation of the superintendent of the school corporation.

The governing body shall determine the duties of the executive secretary, which may include all or part of the duties of the secretary of the board.

SECTION 11. IC 21-6.1-3-7, AS AMENDED BY P.L.119-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The board may do any of the following:

- (1) Adopt and enforce rules and regulations regarding the fund's

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administration and the control and investment of the fund.

(2) Bond employees for the fund's protection.

(3) Receive from the federal government the state's share of the cost of the pension contribution for a member on leave of absence to work in a federally supported educational project.

(4) Sue and be sued as the board of trustees of the Indiana state teachers' retirement fund.

(5) Summon and examine witnesses when adjusting claims.

(6) Require, when adjusting disability claims, medical examinations by doctors approved or appointed by the board; however, not more than two (2) examinations may be conducted in one (1) year.

(7) Conduct investigations to help determine the merit of a claim.

(8) Meet any emergency which may arise in the administration of its trust.

(9) Determine other matters regarding its trust which are not specified.

(10) Enter into agreements with one (1) or more insurance companies to provide life, hospitalization, surgical, medical, **dental, vision, long term care**, or supplemental Medicare insurance, utilizing individual or group insurance policies for retired teachers, and, upon authorization of the respective retired teacher, deduct premium payments for such policies from the teachers' retirement benefits and remit the payments to the insurance companies.

(11) Enter into agreements with one (1) or more insurance companies to provide annuities for retired teachers and upon a member's authorization transfer the amount credited to the member in the annuity savings account to the insurance companies.

(12) Exercise all powers necessary, convenient, or appropriate to carry out and effectuate its public and corporate purposes and to conduct its business.

(13) Establish and amend rules and regulations:

(A) for the administration and regulation of the fund and the board's affairs; and

(B) to effectuate the powers and purposes of the board; without adopting a rule under IC 4-22-2.

(b) An agreement under subsection (a)(10) may be for a duration of three (3) years.

(c) This subsection does not apply to:

(1) an agreement under subsection (a)(10); **or**

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(2) investments of the board.

A contract that the board enters into under section 9(b) of this chapter or any other provision may be for a term of not more than five (5) years, with an ability to renew thereafter.

(d) The board's powers and the fund's powers specified in this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers.

SECTION 12. IC 21-6.1-4-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.5. (a) The fund may accept cash rollover contributions from a member who is making payments for additional service credits under this chapter if the following conditions are met:

(1) The rollover contribution must represent:

(A) all or any portion of the member's interest in a retirement plan of a former employer which is qualified under Section 401(a) of the Internal Revenue Code and which permits the interest to be transferred to the fund as a qualifying rollover contribution under the Internal Revenue Code; ~~or~~

(B) all or a portion of the member's interest from a conduit an individual retirement account under or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code; However, the conduit individual retirement account may not have any assets other than assets that:

~~(i) were previously distributed to the member by an employer plan qualified under Section 401(a) of the Internal Revenue Code as a lump sum distribution;~~

~~(ii) are eligible for tax free rollover treatment; and~~

~~(iii) were deposited in the conduit individual retirement account within sixty (60) days of receipt; and earnings on the conduit account.~~

(C) all or a portion of the member's interest in:

(i) a qualified plan described in Section 403(a) of the Internal Revenue Code; or

(ii) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(D) all or a portion of the member's interest in an eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(2) The amount of the rollover contributions may not exceed the amount of payment required to purchase the service credits under

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this chapter.

(3) The rollover contributions may contain only tax-deferred contributions and earnings on the contributions, and may not include any post-tax contributions.

(4) The member must be otherwise eligible to purchase the service credit under this chapter.

(b) To the extent permitted by the Internal Revenue Code and the applicable regulations, the fund may accept, on behalf of a member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from:

(1) an annuity contract or account described in Section 403(b) of the Internal Revenue Code; or

(2) an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(c) The fund, the board, and their respective members, officers, and employees do not have any responsibility or liability with respect to the federal and state income tax consequences of any transfer made to the fund under this section. The board may require, as a condition to the fund's acceptance of a rollover contribution:

(1) satisfactory evidence that the proposed transfer is a qualifying rollover contribution under the Internal Revenue Code; and

(2) reasonable releases or indemnifications from the member against any and all liabilities that may be connected with the transfer.

~~(c)~~ **(d)** Cash transferred to the fund as a rollover contribution shall be deposited in the retirement allowance account in the pre-1996 account or the 1996 account, whichever is appropriate.

~~(d)~~ **(e)** A member who terminates employment before satisfying the eligibility requirements necessary for a pension or disability benefit may withdraw the member's rollover contribution, plus accumulated interest, after submitting a properly completed application for a refund to the fund. However, the member must also apply for a refund of the member's entire annuity savings account under IC 5-10.2-3 to be eligible for a refund of ~~their~~ **the member's** rollover amount.

~~(e)~~ **(f)** Except as provided in this section, the fund shall not accept any other rollover contributions from a member.

~~(f)~~ **(g)** The board shall administer this section in accordance with the rollover provisions of the Internal Revenue Code and any applicable regulations.

SECTION 13. IC 33-13-9.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) This section applies to a person who:

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- (1) is a judge participating under this chapter;
 - (2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;
 - (3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and
 - (4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).
- (b) If a person becomes a participant in the judges' 1977 benefit system under ~~IC 33-13-9-1-1~~, **section 1 of this chapter**, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:
- (1) the prior service was credited under the public employees' retirement fund;
 - (2) the state contributes to the judges' 1977 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and
 - (3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1977 benefit system during the prior service.
- (c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.
- (d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.
- (e) The following provisions apply to a person described in subsection (a):
- (1) A minimum benefit applies to participants receiving credit in the judges' 1977 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age and equals the actuarial equivalent of the vested retirement benefit that is:
 - (A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and
 - (B) based solely on:
 - (i) creditable service;
 - (ii) the average of the annual compensation; and
 - (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to

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the annuity savings account of the transferring member as of the day before the transfer.

(2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1977 benefit system the amount credited to the annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1977 benefit system may be granted only under subsection (b).

(5) Credit for prior service in the public employees' retirement fund for service other than as a full-time referee, full-time commissioner, or full-time magistrate remains under the public employees' retirement fund and may not be credited under the judges' 1977 benefit system.

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive

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service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.**

SECTION 14. IC 33-13-9.1-10.5, AS ADDED BY P.L.195-1999, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.5. (a) This section applies only to a person who:

- (1) is a judge participating under this chapter;
- (2) before becoming a judge was a member of an Indiana public employees' retirement fund;
- (3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 10 of this chapter;
- (4) has not attained vested status under an Indiana public employees' retirement fund for the employment described in subdivision (2); and
- (5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1977 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

- (1) the prior service was credited under an Indiana public employees' retirement fund; and
- (2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1977 benefit system as the total actual cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1977 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1977 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

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(f) The amount a participant must contribute to the judges' 1977 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1977 benefit system by the board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in an Indiana public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1977 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 15. IC 33-13-10.1-14, AS AMENDED BY P.L.194-1999, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) This section applies to a person who:

(1) is a judge participating under this chapter;

(2) before becoming a judge was appointed by a court to serve as a full-time referee, full-time commissioner, or full-time magistrate;

(3) was a member of the public employees' retirement fund during the employment described in subdivision (2); and

(4) received credited service under the public employees' retirement fund for the employment described in subdivision (2).



(b) If a person becomes a participant in the judges' 1985 benefit system under section 1 of this chapter, credit for prior service by the judge as a full-time referee, full-time commissioner, or full-time magistrate shall be granted under this chapter by the board if:

- (1) the prior service was credited under the public employees' retirement fund;
- (2) the state contributes to the judges' 1985 benefit system the amount the board determines necessary to amortize the prior service liability over a period determined by the board, but not more than ten (10) years; and
- (3) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount the judge would have contributed if the judge had been a member of the judges' 1985 benefit system during the prior service.

(c) If the requirements of subsection (b)(2) and (b)(3) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under subsection (b)(2) or (b)(3) must include interest at a rate determined by the board.

(e) The following provisions apply to a person described in subsection (a):

- (1) A minimum benefit applies to participants receiving credit in the judges' 1985 benefit system from service covered by the public employees' retirement fund. The minimum benefit is payable at sixty-five (65) years of age or when the participant is at least fifty-five (55) years of age and meets the requirements under section 6(2)(B) of this chapter and equals the actuarial equivalent of the vested retirement benefit that is:

- (A) payable to the member at normal retirement under IC 5-10.2-4-1 as of the day before the transfer; and

- (B) based solely on:

- (i) creditable service;
- (ii) the average of the annual compensation; and
- (iii) the amount credited under IC 5-10.2 and IC 5-10.3 to the annuity savings account of the transferring member as of the day before the transfer.

- (2) If the requirements of subsection (b)(2) and (b)(3) are satisfied, the board shall transfer from the public employees' retirement fund to the judges' 1985 benefit system the amount credited to the annuity savings account and the present value of

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the retirement benefit payable at sixty-five (65) years of age or at least fifty-five (55) years of age under section 6(2)(B) of this chapter that is attributable to the transferring participant.

(3) The amount the state and the participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subdivision (2).

(4) If the requirements of subsection (b)(2) and (b)(3) are satisfied, credit for prior service in the public employees' retirement fund as a full-time referee, full-time commissioner, or full-time magistrate is waived. Any credit for the prior service under the judges' 1985 benefit system may be granted only under subsection (b).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 16. IC 33-13-10.1-14.5, AS ADDED BY P.L.195-1999, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14.5. (a) This section applies only to a person who:

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- (1) is a judge participating under this chapter;
- (2) before becoming a judge was a member of an Indiana public employees' retirement fund;
- (3) received credited service under an Indiana public employees' retirement fund for the employment described in subdivision (2), and the credited service is not eligible for prior service credit under section 14 of this chapter;
- (4) has not attained vested status under an Indiana public employees' retirement fund for the employment described in subdivision (2); and
- (5) has at least eight (8) years of service credit in the judges' retirement system.

(b) If a person becomes a participant in the judges' 1985 benefit system under this chapter, credit for service described in subsection (a) shall be granted under this chapter by the board if:

- (1) the prior service was credited under an Indiana public employees' retirement fund; and
- (2) the judge pays in a lump sum or in a series of payments determined by the board, not exceeding five (5) annual payments, the amount determined by the actuary for the 1985 benefit system as the total cost of the service.

(c) If the requirements of subsection (b) are not satisfied, a participant is entitled to credit only for years of service after the date of participation in the 1985 benefit system.

(d) An amortization schedule for contributions paid under this section must include interest at a rate determined by the board.

(e) If the requirements of subsection (b) are satisfied, the appropriate board shall transfer from the retirement fund described in subsection (a)(2) to the judges' 1985 benefit system the amount credited to the judge's annuity savings account and the present value of the retirement benefit payable at sixty-five (65) years of age that is attributable to the transferring participant.

(f) The amount a participant must contribute to the judges' 1985 benefit system under subsection (b) shall be reduced by the amount transferred to the judges' 1985 benefit system by the board under subsection (e).

(g) If the requirements of subsection (b) are satisfied, credit for prior service in an Indiana public employees' retirement fund is waived.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a rollover of a distribution

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from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and the applicable regulations, the judges' 1985 benefit system may accept, on behalf of a participant who is purchasing permissive service credit under subsection (b), a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

SECTION 17. IC 36-8-8-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. (a) Except as provided in subsection (b), if a unit becomes a participant in the 1977 fund, credit for prior service by police officers (including prior service as a full-time, fully paid town marshal or full-time, fully paid deputy town marshal by a police officer employed by a metropolitan board of police commissioners) or by firefighters before the date of participation may be given by the PERF board only if:

- (1) the unit contributes to the 1977 fund the amount necessary to amortize prior service liability over a period of not more than forty (40) years, the amount and period to be determined by the PERF board; and
- (2) the police officers or firefighters pay, either in a lump sum or in a series of payments determined by the PERF board, the amount that they would have contributed if they had been members of the 1977 fund during their prior service.

If the requirements of subdivisions (1) and (2) are not met, a fund member is entitled to credit only for years of service after the date of participation.

(b) If a unit becomes a participant in the 1977 fund under section 3(c) of this chapter, or if a firefighter becomes a member of the 1977



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fund under section 7(g) of this chapter, credit for prior service before the date of participation or membership shall be given by the PERF board as follows:

(1) For a member who will accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, the member will be given credit in the 1977 fund for one-third (1/3) of the member's years of participation in PERF as a police officer, a firefighter, or an emergency medical technician.

(2) For a member who will not accrue twenty (20) years of service credit in the 1977 fund by the time the member reaches the earliest retirement age under the fund at the time of the member's date of participation in the 1977 fund, such prior service shall be given only if:

(A) The unit contributes to the 1977 fund the amount necessary to fund prior service liability amortized over a period of not more than ten (10) years. The amount of contributions must be based on the actual salary earned by a first class firefighter at the time the unit becomes a participant in the 1977 fund, or the firefighter becomes a member of the 1977 fund, or if no such salary designation exists, the actual salary earned by the firefighter. However, credit for prior service is limited to the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter reaches the earliest retirement age under the 1977 fund at the time of the member's date of participation in the 1977 fund. The limit on credit for prior service does not apply if the firefighter was a member of the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 and who subsequently became a member of the 1977 fund. A firefighter who was a member of or reentered the 1937 fund or 1977 fund whose participation was terminated due to the creation of a new fire protection district under IC 36-8-11-5 is entitled to full credit for prior service in an amount equal to the firefighter's years of service before becoming a member of or reentering the 1977 fund. Service may only be credited for time as a full-time, fully paid firefighter or as an emergency medical technician under section 7(g) of this chapter.

(B) The amount the firefighter would have contributed if the

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firefighter had been a member of the 1977 fund during the firefighter's prior service must be fully paid and must be based on the firefighter's actual salary earned during that period before service can be credited under this section.

(C) Any amortization schedule for contributions paid under clause (A) and contributions to be paid under clause (B) must include interest at a rate determined by the PERF board.

(3) If, at the time a unit entered the 1977 fund, the unit contributed the amount required by subdivision (2) so that a fund member received the maximum prior service credit allowed by subdivision (2) and, at a later date, the earliest retirement age was lowered, the unit may contribute to the 1977 fund on the fund member's behalf an additional amount that is determined in the same manner as under subdivision (2) with respect to the additional prior service, if any, available as a result of the lower retirement age. If the unit pays the additional amount described in this subdivision in accordance with the requirements of subdivision (2), the fund member shall receive the additional service credit necessary for the fund member to retire at the lower earliest retirement age.

(c) This subsection applies to a unit that:

- (1) becomes a participant in the 1977 fund under section 3(c) of this chapter; and
- (2) is a fire protection district created under IC 36-8-11 that includes a township or a municipality that had a 1937 fund.

A firefighter who continues uninterrupted service with a unit covered by this subsection and who participated in the township or municipality 1937 fund is entitled to receive service credit for such service in the 1977 fund. However, credit for such service is limited to the amount accrued by the firefighter in the 1937 fund or the amount necessary to allow the firefighter to accrue twenty (20) years of service credit in the 1977 fund by the time the firefighter becomes fifty-five (55) years of age, whichever is less.

(d) The unit shall contribute into the 1977 fund the amount necessary to fund the amount of past service determined in accordance with subsection (c), amortized over a period not to exceed ten (10) years with interest at a rate determined by the PERF board.

(e) If the township or municipality has accumulated money in its 1937 fund, any amount accumulated that exceeds the present value of all projected future benefits from the 1937 plan shall be paid by the township or municipality to the unit for the sole purpose of making the

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contributions determined in subsection (d).

(f) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a rollover of a distribution from any of the following:

- (1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.**
- (2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state under Section 457(b) of the Internal Revenue Code.**
- (4) An individual retirement account or annuity described in Section 408(a) or Section 408(b) of the Internal Revenue Code.**

(g) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing permissive service credit under this chapter, a trustee to trustee transfer from any of the following:

- (1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.**
- (2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.**

SECTION 18. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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SEA 59 — Concur+

